

REMARKS

This Preliminary Amendment is being filed concurrently with a request for filing a continuation application under 37 C.F.R. §1.53(d) of a prior nonprovisional application. Claims 1-10 were amended and claims 27-36 were added by amendment entered in the parent application. New claims 37-42 are introduced by this Preliminary Amendment. Accordingly, claims 1-10, 12-22 and 27-42 are pending upon entry of this amendment. Support for the amended and new claims is provided by the specification as originally filed. Accordingly, no new matter has been introduced.

Election/Restriction

In the prior nonprovisional application, a five-way restriction requirement was issued (See Paper No. 3, mailed November 9, 1999). With traverse, Applicants elected the invention of Group I for examination purposes. The invention of Group I included original claims 1-10 directed to a laminate. The requirement for restriction between Groups I and II was withdrawn (See Paper No. 5, mailed July 3, 2000). The invention of Group II included original claim 11 directed to a container formed from the laminate of Group I.

In the Amendment, filed January 3, 2001, Applicants amended claims 1-10 to recite a method of using a laminate and added new claims 27-36 directed to a method of using a container. In the Office Action, mailed March 1, 2001, the Examiner asserted that amended claims 1-10 and new claims 27-36 are directed to an invention that is independent and distinct from the elected invention of Group I. Accordingly, claims 1-10 and 27-36 were withdrawn from consideration as being directed to a non-elected invention.

Applicants submit this Preliminary Amendment and respectfully request the Examiner to reconsider the restriction requirement of record in view of the pending claims. The special technical feature which distinguishes the claimed invention over the prior art is the recited use of a laminate or container having a layer of silicon oxide (SiO_x) as a barrier to ethylene oxide gas. The container having the silicon oxide (SiO_x) layer may be used in an assembly (claims 12-18) or a storage package (claims 20-21). Claim 22 is directed to a process for assembling the container having the silicon oxide (SiO_x) layer in the storage package of claims 20-21. Therefore, examination of all the claims would be based on the recited use of a silicon oxide (SiO_x) layer as a barrier to ethylene oxide gas. Accordingly, restriction among the claims is without support and would be improper.

Patentability is based on Applicants' unexpected discovery of the efficacy of a laminate having an intermediate layer of silicon oxide (SiO_x) layer as a barrier to ethylene oxide gas. In this regard, the Examiner's attention is directed to the specification at page 3, lines 4-14. The impermeability of the SiO_x -containing laminate prevents the reaction of ethylene oxide gas with fluids contained in a container made from the SiO_x -containing laminate.

CONCLUSION

Upon entry of this Preliminary Amendment, claims 1-10, 12-22 and 27-42 are pending.
Applicants respectfully submit that the claims are directed to patentable subject matter.
Accordingly, Applicants request allowance of the claims.

Authorization is hereby given to charge any fee in connection with this communication to
Deposit Account No. 23-1703.

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Respectfully submitted,

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